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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,041	06/20/2003	Kimberly Day Harris-Griffin	1384.01	8314

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MELVIN K. SILVERMAN
SUITE 500
500 WEST CYPRESS CREEK ROAD
FORT LAUDERDALE, FL 33309

EXAMINER

PRINCE, FRED G

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,041

Applicant(s)

HARRIS-GRIFFIN ET AL.

Examiner

Fred Prince

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The term "heavy material" in claims 1-14 is a relative term which renders the claim indefinite. The term "heavy material" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is noted that the specification indicates that the material "preferably" has a density of greater than 1.0 g/cm^3 (page 8, lines 3-4), implying that materials having a lower density may also be considered "heavy". For examination purposes, the term "heavy material" will be considered to be a material having a specific gravity greater than 1.0 or a density greater than 1.0 g/cm^3 . Appropriate action required.

4. The term "high density" in claims 2, 9, and 13 is a relative term which renders the claims indefinite. The term "high density" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Accordingly, the term is considered vague and indefinite. For examination purposes, the term "high density" will be considered

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to be a material having a specific gravity greater than 1.0 or a density greater than 1.0 g/cm³. Appropriate action required.

Claims 3-7, 10-11, and 14 are rejected as depending from a rejected claim.

5. Claim 13 recites the limitation "said heavy material" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 1 is objected to because of the following informalities: The parentheses around g/cm³ should be removed in order to make clear that a specific density is being claimed and that the density provided is not "preferable" or optional. Appropriate correction is required.

Specification

7. The disclosure is objected to because of the following informalities: Throughout the specification, applicant has used the term "density of 1.0" where it appears that applicant intended --specific gravity--. If the term "density" is used with a number, the units, such as g/cm³, lb/ft³, etc., must immediately follow the number.

Appropriate correction is required.

Drawings

The drawings are objected to because they contain photocopies of photographs. Photocopies of photographs are not permitted where the subject matter illustrated is easily rendered in a drawing. Accordingly, as the subject

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matter readily admits of illustration by a drawing, drawings are required. See MPEP 608.02.

Claims

8. The functional language in the claims requiring that the weight be sufficient enough to keep the basket from floating when the a pool pump is off is given patentable weight by the examiner since, in the examiner's opinion, the limitation gives additional meaning and purpose to the claim.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dye in view of Felix, Jr. et al.

Dye, directed toward a skimmer basket weight, discloses a skimmer basket weight (22a, 22b) comprising a heavy material having a density inherently greater than 1.0 g/cm³ since the weight straightens the basket while the basket is in water (col. 2, lines 52-56), wherein said skimmer basket weight is configured to have a circular outer periphery with a hollow opening for allowing water flowing through said hollow opening (Fig. 1 and 3), said circular outer periphery having a

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diameter substantially matching an inner diameter of a bottom of a skimmer basket (Figs. 1 and 3). Dye does not disclose the weight being heavy enough to keep the basket from floating when a pump is turned off and the weight being coated with a waterproof coating.

In any case, Felix, Jr. et al., also directed toward a skimmer basket weight, disclose the well known concepts of providing a basket (210) with sufficient weight (500) such that the basket does not float when a pump is turned off (col. 2, lines 4-20) and providing a water proof coating (col. 10, line 11-16) in order to, for instance, adhere the weight to the basket.

It would have been obvious for the skilled artisan to have modified the skimmer basket weight of Dye such that it has sufficient weight to ensure that the basket does not float when a pump is turned off and provided a water proof coating in order to, for instance, adhere the weight to the basket, as suggested by Felix, Jr. et al.

Per claims 4-7, 10-11, and 14, Dye does not disclose the specific weight of the weight or the diameter of the weight. It is submitted that the weight of the weight and the diameter of the weight would have been obvious choices of design for the skilled artisan as the weight and diameter provide no new and unexpected result and therefore fail to patentably distinguish the instant invention over the prior art.

Per claim 17, Dye does not disclose fixing the weight to the basket with tie straps.

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Felix, Jr. et al. disclose using fasteners in order to, for instance, affix a weight to a basket (col. 10, 16-18). Accordingly, it would have been obvious for the skilled artisan to have modified the apparatus of Dye by using fastener to affix the weight to the skimmer basket, as suggested by Felix, Jr. et al.

Regarding using tie straps, it is submitted that mere substitution of one known fastener for another known fastener does not patentably distinguish the instant invention over the prior art.

Conclusion


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724

fgp
8/5/04